



MAIL STOP APPEAL BRIEF-PATENTS  
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0503-1061

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IN THE U.S. PATENT AND TRADEMARK OFFICE BEFORE  
THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re application of	Appeal No.
Laurent FERENCZI et al.	Conf. 9405
Application No. 10/528,170	Group 3627
Filed February 1, 2000	Examiner G. O'Connor
INSTALLATION FOR MONITORING GAS CYLINDERS	

APPEAL BRIEF

MAY IT PLEASE YOUR HONORS:

(i) **Real Party in Interest**

The real party in interest in this appeal is the current assignee, L'AIR LIQUIDE, SOCIETE ANONYME POUR L'ETUDE ET L'EXPLOITATION DES PRECEDES GEORGES CLAUDE, of Paris, France.

(ii) **Related Appeals and Interferences**

None.

(iii) **Status of Claims**

Claims 25-28 were rejected and are the subject of the present appeal. Claims 1-24 have been canceled.

(iv) **Status of Amendments**

No amendments were filed following the Final rejection of February 21, 2007.

(v) **Summary of Claimed Subject Matter**

Claim 25 is the only independent claim. Claim 25 defines an installation in which cylindrical containers are

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stored, as shown generally in Figure 7 where cylindrical containers 107 are stored in space 103 (page 11, lines 28-35 and page 18, lines 22-26). The objects of the invention of claim 25 are solutions to problems associated with distribution of gas cylinders, for example, from a central depot to various departments where they are conveyed to their respective points of use (page 1, lines 2-17). The problems include availability of full cylinders in the central depot, overstocking due to duplicate orders, too many empty cylinders and their locations, and unauthorized use of the central depot (page 1, line 18 through page 2, line 27.) The installation defined in claim 25 may be useful to solve these problems wherever the cylinders are stored.

In the installation defined in claim 25, each of the plural cylindrical containers 107 stored in the installation has an identification medium 7 associated therewith (Figure 1, page 6, lines 5-17).

The installation has a delimited storage zone (the space 103) with plural locations 113 that each stores a respective one of the cylindrical containers (Figure 5, page 11, lines 28-35). The storage zone 103 has a first access 118 that provides direct and simultaneous access to all of the plural locations 113, and a first door 119 and a first lock 123 in the first access (Figures 5 and 7, page 12, lines 6-13).

The installation includes a reader 130, 131 for reading the identification medium 7 on a respective one of the

cylindrical containers 107 as the respective container passes through the first access 118 (Figure 7, page 12, line 35 through page 13, line 6).

The installation further includes a delimited access bay 203 (Figure 7) providing access to the first access 118. The access bay is adjacent to the storage zone 103 and has a second access 207, and a second door 209 and a second lock 213 in the second access 207 (Figure 7, page 18, line 32 through page 19, line 2).

The installation also includes an authorization device 140 (Figure 8) receiving information from a user desiring access to the storage zone 103 and determining whether the user is authorized to enter the storage zone 103. The authorization device operates the first lock 123 and the second lock 213 and controls these locks so that the first door 119 and the second door 209 are not open simultaneously (Figure 8, page 19, line 15 through page 20, line 27).

Claim 26 depends from claim 25 and provides that the installation further includes in the access bay 203 a first device 215 (Figure 7) for dispensing the identification medium 7, where the authorization device 140 controls the first device 215 to dispense the identification medium 7 only when the first door 119 and second door 209 are closed (Figures 7-8, page 18, line 32 through page 19, line 14).

Claim 27 depends from claim 25 and provides that the installation further includes a terminal 314 (Figure 9) that determines a respective one of the locations 113 in which a respective one of the containers 107 is stored and of an identity of a user who moved the respective container to the respective location (page 21, line 29 through page 22, line 3).

Claim 28 depends from claim 27 and provides that the installation further includes an installation-wide positioning system 52 (Figures 4 and 10), where the terminal 314 determines the respective location of the respective container 107 based on the installation-wide positioning system 52 and records movement of the container over time (page 9, lines 26-32, page 23, line 26 through page 24, line 28).

(vi) **Grounds of Rejection to be Reviewed on Appeal**

Whether claims 25-28 are unpatentable under 35 U.S.C. 103 over ZEKICH 4,586,441 in view of MCCARRICK et al. 5,953,682.

(vii) **Arguments**

Rejection under 35 U.S.C. 103 over ZEKICH in view of MCCARRICK et al.

Claim 25

The rejection should be reversed because the artisan would not make the combination proposed by the Examiner, and even if made, the combination does not disclose all that is claimed and does not offer a practical solution.

ZEKICH is concerned with the identity and belongings of people passing through a security gate and does not make any provisions for storing items in a delimited storage zone beyond the security gate or for identifying the items as they pass through the security gate leading to the storage zone. That is, the invention of claim 25 has two delimited areas; the delimited storage zone where the cylindrical containers are stored and the delimited access bay that affords access to the storage zone. By contrast, ZEKICH discloses but one delimited area; the mid-zone 30. There is no suggestion to provide the claimed second delimited storage zone where the cylindrical containers are stored.

Further, ZEKICH does not disclose plural cylindrical containers that each has an identification medium associated therewith, a delimited storage zone with plural locations that each stores a respective one of the cylindrical containers, and a reader for reading the identification medium on a respective one of the cylindrical containers as the respective container passes through the first access.

Indeed, ZEKICH would not work to control access to a storage zone in the manner claimed because ZEKICH has no provision for reading the identification medium on a respective one of the cylindrical containers as the respective container passes through the first access.

The Examiner acknowledges (February 21, 2007 Official Action) that ZEKICH does not disclose that each location of a plurality of locations within the storage zone stores cylindrical containers, where each container has an identification medium associated with it. The Examiner relies on MCCARRICK et al. for the suggestion to modify ZEKICH.

MCCARRICK et al. disclose an automated gas cylinder tracking system in which data collected from data storage devices (an inventory control collar) associated with individual gas cylinders are input to a host computer for tracking and reporting of the amount and type of gas (column 1, line 51 through column 2, line 20). The cylinders may be stored in cabinets equipped with data reading devices connected to a controller on each cabinet that provides access to the cabinet (column 3, line 51 through column 4, line 21).

The Examiner offers as motivation to combine these references the security of the containers against loss or theft.

It is not believed that one of skill in the art would combine the references as proposed by the Examiner. Security against loss or theft is provided by the system in MCCARRICK et al. alone (e.g., the cabinets with the controller). There is no indication in the references that the combination of the two references proposed by the Examiner would increase security over the security offered by the system disclosed in MCCARRICK et al. Perhaps the Examiner is suggesting that the artisan would store

the gas cylinders from MCCARRICK et al. beyond the double security gate of ZEKICH. Where do the references address this? They do not, and one of skill in the art would not see the proposed combination as a suitable solution to a problem. Where would they be stored? There is nothing in ZEKICH that suggests the delimited storage area beyond the security gate. Indeed, there is no motivation for the artisan to combine these references that concern totally different issues; ZEKICH is concerned with user identification, and MCCARRICK et al. is concerned with storage of cylinders and reading/writing data for the cylinders. The problems of user identification and storage of gas cylinders are related only in that concern security, which is not an open invitation to apply any art in the field of security. "[T]here must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." (*In re Kahn*, 441 F.3d 977, 988 (CA Fed. 2006)). In the present application, the Examiner's reason for combining the references is not a rational underpinning; increased security is an assumption that is not based on what is addressed in the references.

Further, even if the references were combined, the combination would not include the two delimited areas claimed. ZEKICH has but one delimited area (mid-zone 30) and does not disclose or suggest the claimed delimited storage zone beyond. MCCARRICK et al. disclose a secure cabinet and thus also do not

disclose the two delimited areas claimed. The combination also would not include a provision for reading the identification medium of the cylinder as the cylinder passes from the delimited access bay through the access to the delimited storage zone. ZEKICH makes no provision for reading the identification medium of a cylinder and MCCARRICK et al. read the identification medium of the cylinder in the cabinet, not as the cylinder passes from a delimited access area to a delimited storage zone beyond. Thus, even if made, the proposed combination fails to suggest the claimed installation for storing cylindrical containers with two delimited areas, where each of the containers has an identification medium associated therewith that is read when passing from one delimited area to another delimited area beyond.

Further, it is not seen how the security system of ZEKICH could be adapted to receive the cylinders of MCCARRICK et al. or adapted to work with the system disclosed in MCCARRICK et al. ZEKICH does not make any provisions for receiving or storing cylindrical containers in a storage zone or for identifying the cylindrical containers as they pass through a gate leading to the storage zone. MCCARRICK et al. includes storage cabinets that have a controlled access. Where would the cabinets be located in the device in ZEKICH? Would the system include both methods of controlling access (the double gate in ZEKICH and the cabinets of MCCARRICK et al.)? If so, why? The combination of ZEKICH and MCCARRICK et al. offered by the Examiner is not a practical one



that would be obvious to one of skill in the art. The two systems are not compatible and there is nothing in either reference that addresses the combination proposed by the Examiner.

In addition, it appears that MCCARRICK et al. point away from the present invention in that the reference is concerned with placing a particular cylinder in a particular cabinet, where the invention defines a delimited storage zone with plural locations that each stores a respective one of the cylindrical containers and the delimited storage zone has a first access that provides direct and simultaneous access to all of the plural locations.

Accordingly, the rejection of claim 25 should be reversed.

Claim 26

Claim 26 depends from claim 25 and is allowable for the reasons given above. In addition, ZEKICH does not disclose a first device for dispensing the identification medium that is associated with a respective one of the containers only when said first and second doors are closed.

The Examiner points to a first device 100, but this is a hand geometry reader. If the guard determines that the person seeking access is legitimate, then the guard issues a pass (column 7, lines 53-62). There is no suggestion in either

reference to have a device issue an identification medium for a cylindrical container only when both doors are closed.

Accordingly, the rejection of claim 26 should be reversed.

Claim 27

Claim 27 depends from claim 25 and is allowable for the reasons given above. In addition, there is no suggestion in the reference to provide a terminal that determines a respective location in which a respective container is stored and of an identity of a user who moved the respective container to the respective location.

The Examiner points to guard panel 94 where the identity of the person is determined. However, there is no suggestion in either reference to determine a location in which a cylindrical container is stored or to determine the identity of a user who moved the container to the location.

Accordingly, the rejection of claim 27 should be reversed.

Claim 28

Claim 28 depends from claim 27 and is allowable for the reasons set forth above. In addition, the claim avoids the rejection because there is nothing in either reference that discloses an installation-wide positioning system, where the terminal determines the respective location of the respective container based on the installation-wide positioning system and

records movement of the container over time. The device in ZEKICH controls the flow of people through a gate, and does not keep track of the movement of a cylindrical container over time.

The Examiner points to column 4, lines 56-60, but this refers to augmenting the system with a closed circuit television. This is not seen to be an installation-wide positioning system and the locations of cylindrical containers are not recorded over time. Indeed, the presence of a camera means that the particular location viewed by the camera is monitored, not that the camera records movements of cylindrical containers over time. The cameras in the reference would have to be directed to follow a particular container as it moves, and the reference does not disclose this.

Accordingly, the rejection of claim 28 should be reversed.

In view of this, it is believed that the rejections of record cannot be sustained and that the same must be reversed and such is respectfully requested.

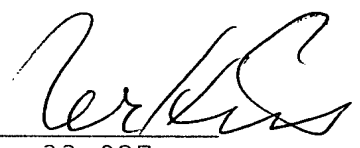
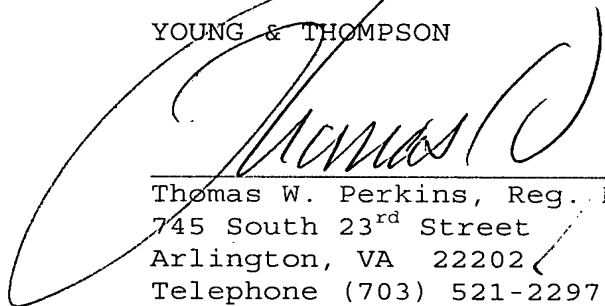
The claims involved in the appeal are set forth in the Claims Appendix.

There are no copies of evidence in the Evidence Appendix.

There are no copies of decisions in the Related  
Proceedings Appendix.

Respectfully submitted,

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(viii) Claims Appendix

The claims on appeal:

25. An installation storing cylindrical containers, comprising:

plural cylindrical containers that each has an identification medium associated therewith;

a delimited storage zone with plural locations that each stores a respective one of said cylindrical containers, said storage zone having a first access that provides direct and simultaneous access to all of said plural locations, and a first door and a first lock in said first access;

a reader for reading the identification medium on a respective one of said cylindrical containers as the respective container passes through said first access;

a delimited access bay providing access to said first access, said access bay being adjacent to said storage zone and having a second access, and a second door and a second lock in said second access; and

an authorization device receiving information from a user desiring access to said storage zone and determining whether the user is authorized to enter said storage zone, said authorization device operating said first and second locks and controlling said first and second locks so that said first and second doors are not open simultaneously.

26. The installation of claim 25, further comprising in said access bay a first device for dispensing the identification medium, wherein said authorization device controls said first device to dispense the identification medium only when said first and second doors are closed.

27. The installation of claim 25, further comprising a terminal that determines a respective one of said locations in which a respective one of said containers is stored and of an identity of a user who moved the respective container to the respective location.

28. The installation of claim 27, further comprising an installation-wide positioning system and wherein said terminal determines the respective location of the respective container based on said installation-wide positioning system and records movement of the container over time.

(ix) Evidence Appendix

None.

(x) Related Proceedings Appendix

None.